

§ 4b.2

individual selecting the grievance procedure waives the use of the procedures in this part to correct or amend a record; and,

(4) Requests for employee-employer services and counseling which were routinely granted prior to enactment of the Act, including, but not limited to, test calculations of retirement benefits, explanations of health and life insurance programs, and explanations of tax withholding options.

(e) The selection of the appropriate method for processing an individual's request for records depends on the status or capacity of the individual, the wording of the request and the character of the records requested. The Department anticipates the following situations and will undertake processing as indicated:

(1) Requester is the individual to whom the record pertains and the requester expressly states only that the request is under the Act—The request will be processed under the Act and this part;

(2) Requester is the individual to whom the record pertains and the requester expressly states only that the request is under the Freedom of Information Act—The request will be processed under the Freedom of Information Act and the Department's implementing regulations (part 4 of this chapter);

(3) Requester is the individual to whom the record pertains and the requester expressly states that the request is under both the Act and the Freedom of Information Act—The request will be processed concurrently under both statutes and the Department's respective implementing regulations. For such dual requests the Department will follow the fee provisions under the Act and this part, and follow the time limits under the Freedom of Information Act and part 4 of this title;

(4) Requester is the individual to whom the record pertains and the requester fails to specify whether the request is under the Act or the Freedom of Information Act or both—The Department will respond to the requester and ask for clarification of the requester's intention as to processing. The request will not be deemed to have been

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“received” for purposes of measuring time periods for response until the clarification actually has been received by the appropriate official of the Department; and,

(5) Requester (i) is not an individual or (ii) is an individual but not the individual to whom the record pertains or one asserting parentage or guardianship as permitted under the Act—The request will be processed under the Freedom of Information Act and the Department's implementing regulations or under other applicable procedures.

[40 FR 45621, Oct. 2, 1975; 40 FR 50662, Oct. 30, 1975; 40 FR 51168, Nov. 3, 1975, as amended at 53 FR 26236, July 12, 1988]

§ 4b.2 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this part:

(1) The term *Act* means the “Privacy Act of 1974,” Pub. L. 93-579.

(2) The term *appeal* means the request by an individual that an initial denial of a request for correction or amendment by that individual be reviewed and reversed.

(3) The term *Department* means the Department of Commerce.

(4) The term *inquiry* means either a request for general information regarding the Act and this part or a request by an individual (or that individual's parent or guardian) that the Department determine whether it has any record in a system of records which pertains to that individual.

(5) The term *person* means any human being and also shall include but not be limited to, corporations, associations, partnerships, trustees, receivers, personal representatives, and public or private organizations.

(6) The term *Privacy Officer* means those officials, identified in Appendix A to this part, who are authorized to receive and act upon inquiries, requests for access, and requests for correction or amendment.

(7) The term *request for access* means a request by an individual to see a record which is in a particular system of records and which pertains to that individual.

(8) The term *request for correction or amendment* means the request by an individual that the Department change (either by correction, amendment, addition or deletion) a particular record in a system of records which pertains to that individual.

(9) The term *unit of the Department* and *unit* means the office of the Secretary of Commerce and operating units of the Department as defined in Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970).

[40 FR 45621, Oct. 2, 1975; 40 FR 50662, Oct. 30, 1975; 40 FR 51168, Nov. 3, 1975, as amended at 53 FR 26236, July 12, 1988]

§ 4b.3 Procedures for inquiries pertaining to individual records in a record system.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit an inquiry to the Department. The inquiry should be made either in person or by mail addressed to the appropriate Privacy Officer identified in Appendix A to this part or to the official identified in the notification procedures paragraph of the systems of records notice published in the FEDERAL REGISTER. If an individual believes the Department maintains a record pertaining to that individual but does not know which system of records might contain such a record and/or which unit of the Department maintains the system of records, assistance in person or by mail will be provided at the first address listed in Appendix A to this part. The offices of Privacy Officers are open to the public between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday (excepting holidays).

(b) The processing of inquiries submitted by mail will be facilitated if the words "PRIVACY ACT INQUIRY" appear in capital letters on the face of the envelope.

(c) The Department has an official form for making inquiries and requests, a facsimile of which is Appendix C to this part. Its use is urged. Copies may be obtained by contacting any of the officials in Appendix A to this part. Copies also may be obtained by

contacting any facility of the Department which offers direct services to the public. Please consult your telephone directory under the listing "United States Government—Commerce Department."

(d) If, for some reason, an individual is unable to use the Department's official form, the letter should bear the words "PRIVACY ACT INQUIRY" in capital letters at the top. If the inquiry is for general information regarding the Act and this part, no particular information is required. If the inquiry is a request that the Department determine whether it has, in a given system of records, a record which pertains to the individual, the following information should be submitted:

(1) Name of individual whose record is sought;

(2) Individual whose record is sought is either a U.S. citizen or an alien lawfully admitted for permanent residence;

(3) Identifying data that will help locate the record (for example, maiden name, occupational license number, period or place of employment, etc.);

(4) Record sought, by description and by record system name, if known;

(5) Action requested (that is, send information on how to exercise rights under the Act; does requested record exist; access to requested record; or copy of requested record);

(6) Copy of court guardianship order or minor's birth certificate, as provided in § 4b.4(f)(3), but only if requester is guardian or parent of individual whose record is sought;

(7) Requester's name (printed), signature, address, and telephone number (optional);

(8) Date; and,

(9) Certification of request by notary or other official, but only if (i) request is for notification that requested record exists, for access to requested record or for copy of requested record; (ii) record is not available to any person under 5 U.S.C. 552; and (iii) requester does not appear before an employee of the Department for verification of identity.

The Department reserves the right to require compliance with the identification procedures appearing at § 4b.4(f) where circumstances warrant.